

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHAN JEAN FRANCOIS GOUAZE,

Plaintiff,

- against -

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES, *et al.*,

Defendants.

No. 25 Civ. 147 (DEH)
No. 25 Civ. 1789 (DEH)

STIPULATION AND
[PROPOSED]
ORDER OF DISMISSAL

WHEREAS, plaintiff filed the action captioned *Gouaze v. U.S. Citizenship & Immigration Services, et al.*, No. 25 Civ. 147 (S.D.N.Y.), on January 7, 2025, seeking to compel re-adjudication of his Form I-829, Petition by Alien Investor to Remove Conditions on Permanent Resident Status (*Gouaze I*), which action defendants (the “government”) has moved to dismiss;

WHEREAS, plaintiff filed the action captioned *Gouaze v. U.S. Citizenship & Immigration Services, et al.*, No. 25 Civ. 1789 (S.D.N.Y.), on March 3, 2025, seeking a declaration from the Court, pursuant to 8 U.S.C. § 1447(b), that he is entitled to naturalize (*Gouaze II*), which action the government intends to move to dismiss;

WHEREAS, on March 4, 2025, in accordance with 8 C.F.R. § 216.6(d)(2), USCIS issued plaintiff a Notice to Appear (“NTA”), which placed plaintiff in removal proceedings;

WHEREAS, plaintiff has a pending Form I-130, Petition for Alien Relative, with USCIS, which USCIS is reviewing but has not yet taken adjudicatory action; now, therefore, IT IS STIPULATED AND AGREED that:

1. These above-captioned actions shall be and hereby are dismissed without prejudice and without costs or attorneys’ fees to either party pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, provided that the Court shall retain jurisdiction over any issues that may arise

relating to this Stipulation and Order, and plaintiffs shall have the right to reinstate the actions in the event of a denial, in accordance with paragraph 12.

2. USCIS shall take initial adjudicative action on plaintiff's pending Form I-130 within 21 days of the Court so-ordering this Stipulation, barring any unforeseen circumstances, such as unanticipated procedural or technological complications or a finding of fraud, in which case counsel for defendants will notify counsel for plaintiff immediately upon learning of the issue and the parties will attempt to resolve the issue without judicial intervention. The initial adjudicative action may include, but is not limited to, the issuance of a final decision; a Request for Evidence ("RFE"); a Notice of Intent to Deny ("NOID"); or an interview scheduling notice.

3. In connection with the Form I-130, if USCIS issues an RFE or NOID to plaintiff, or requests that plaintiff appear for an interview, defendants agree to a 21-day timeframe for USCIS to take the next adjudicative action following the interview or upon receiving a response to the RFE or NOID (*e.g.*, a decision or subsequent RFE or NOID). Counsel for plaintiff agrees to provide counsel for defendants notice of the RFE and/or NOID response filing and tracking information and, to facilitate expeditious processing, counsel for plaintiff will provide an electronic copy of the records to the undersigned counsel for the government, unless original copies are required or requested per the instructions of an RFE or NOID. This 21-day timeframe is applicable to each subsequent interim adjudication, if any (*e.g.*, a response to a second RFE).

4. Within 14 days of the Court so-ordering this Stipulation, plaintiff will file the Form I-485, Application to Register Permanent Residence or Adjust Status, with the immigration court in accordance with the instructions found here: <https://www.uscis.gov/sites/default/files/document/legal-docs/DEFA-pre-order-instructions.pdf>. Counsel for plaintiff will provide counsel for defendants an electronic copy of the Form I-485 filing.

5. In the event that USCIS approves plaintiff's Form I-130, plaintiff shall file a motion in immigration court to terminate pending removal proceedings within seven days of receiving the I-130 approval notice, so that USCIS can adjudicate plaintiff's Form I-485. Upon filing the motion to terminate proceedings, counsel for plaintiff will provide counsel for defendants a copy of the motion.

6. In the event that an immigration judge terminates removal proceedings against plaintiff and returns jurisdiction to USCIS, counsel for plaintiff agrees to immediately provide counsel for defendants a copy of the immigration court order. USCIS will then begin pre-processing checks on plaintiff's Form I-485 and, once those pre-processing checks and vetting are complete, and barring unanticipated procedural or technological complications or a finding of fraud, USCIS will take initial adjudicative action on plaintiff's Form I-485 within 60 days. The initial adjudicative action may include, but is not limited to, the issuance of a final decision; an RFE; a NOID; or an interview scheduling notice.

7. USCIS shall take initial adjudicative action on plaintiff's Form I-485 within 60 days, barring any unforeseen circumstances, such as unanticipated procedural or technological complications or a finding of fraud, in which case counsel for defendants will notify counsel for plaintiff immediately upon learning of the issue and the parties will attempt to resolve the issue without judicial intervention. The initial adjudicative action may include, but is not limited to, the issuance of a final decision; an RFE; a NOID; or an interview scheduling notice.

8. In connection with the Form I-485, if USCIS issues an RFE or NOID to plaintiff, or requests that plaintiff appear for an interview, defendants agree to a 60-day timeframe for USCIS to take the next adjudicative action following the interview or upon receiving a response to the RFE or NOID. Counsel for plaintiff agrees to provide counsel for defendants notice of the RFE

and/or NOID response filing and tracking information and, to facilitate expeditious processing, counsel for plaintiff will provide an electronic copy of the records to the undersigned counsel for the government, unless original copies are required or requested per the instructions of an RFE or NOID. This 60-day timeframe is applicable to each subsequent interim adjudication, if any (*e.g.*, a response to a second RFE).

9. In conducting the adjudication processes described above, Defendants agree not to take the position that the denial of plaintiff's Form I-829, which is at issue in *Gouaze I*, impacts plaintiff's ability to adjust status in connection with the to-be-filed Form I-485.

10. If USCIS is unable to meet any of the deadlines set forth herein for reasons outside of its control, counsel for defendants agrees to notify counsel for plaintiff, and plaintiff's counsel agrees to work in good faith with counsel for defendants to resolve the issue without judicial intervention.

11. If plaintiff believes there is a breach of this agreement, plaintiff agrees to give defendants' counsel notice within fourteen days of the alleged breach, and the government shall have fourteen days from the date of such notice to remedy any breach before plaintiff may seek judicial intervention.

12. If USCIS, for any reason, denies plaintiff's pending Form I-130 or to-be-filed Form I-485 and plaintiff wishes to reinstate these actions, plaintiff shall file a notice of reinstatement with the Court within seven days of the relevant denial, and, in *Gouaze II*, defendants shall have 14 days from reinstatement of the case to file their response to the operative complaint.

13. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or

negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

14. Defendants agree to the terms of this stipulation based on the specific facts and circumstances presented in this matter. Nothing in this stipulation shall be construed as an admission of liability or wrongdoing, or as a concession of any rights or arguments, by any party, nor shall it be construed to require defendants to provide any form of relief to any other noncitizen in similar or dissimilar circumstances.

Dated: Washington, DC
June 4, 2025

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Dated: New York, New York
June 4, 2025

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SO ORDERED.



HON. DALE E. HO
UNITED STATES DISTRICT JUDGE

Dated: June 5, 2025
New York, New York